IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-09-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.14910 of 2007 and
M.P.No.1 of 2007

M/s.Panchura Estates Limited,
"ABC" House, Figure 8 Road,
Coonoor - 643 101, The Nilgiris. .. Petitioner.

Versus

1.The Special Commissioner of Agricultural,
Income Tax, Ground Floor,
Ezhilagam, Chepauk, Chennai- 600 005.

2.The Agricultural Income Tax Officer,
Deputy Collector, Gudalur Circle,
Gudalur-643 212, Nilgiris.

3.The Assistant
Commissioner of Agricultural,
Income Tax, Coimbatore. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to refund the Excess tax of Rs.10,98,380/- liable to be refunded to the petitioner in view of the assessment order dated 30.06.2003 passed in G.I.R.No.47(P) 1996-97/GDR for the asst. year 1996-97 and also based on the petitioner's representations dated 02.07.2003, 01.08.2003, 03.10.2003, 28.02.2004, 05.08.2004 and through the legal notices dated 10.08.2004, 08.12.2004 and thereafter through representations dated 12.03.2005.

For petitioner : Mr.P.Rajkumar
For respondents : Mr.R.Mahadevan
Additional Government Pleader

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O R D E R

Mr.R.Mahadevan, the learned Additional Government Pleader takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final disposal.

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3. The petitioner, who was owning an Agricultural Estate in the Nilgiris District was an assessee in the books of accounts of the second respondent, under the Tamil Nadu Agricultural Income Tax Act, 1955. For the Assessment year 1996 - 1997, though the petitioner has filed return of income showing a loss of Rs.3,95,428/-, the second respondent has issued several notices, requiring the petitioner to produce the books of accounts for the relevant period. Pursuant thereto, the petitioner has produced the books of accounts for the assessment year 1996 - 1997. After appreciating the same, the second respondent has passed the assessment order, dated 07.08.1997, determining the taxable income at Rs.29,12,037/- and levied tax of Rs.18,92,282/-, which was questioned by the petitioner by way of a representation, dated 26.08.1997, before the second respondent. Upon rejection of the representation, the petitioner had filed a revision petition before the first respondent, along with a stay petition. However, wherein the stay petition of the petitioner was rejected by the respondent. In the meantime, the second respondent had directed attachment of the lorry belonging to the petitioner. The petitioner had challenged the order passed in the stay petition by way of a writ petition. This Hon'ble Court had directed the release of the lorry imposing the condition to deposit a sum of Rs.3,00,000/- and the same has been complied with. Pursuant to which, the revision preferred by the petitioner was dealt with and the same was dismissed by the first respondent. The said order of dismissal was challenged by the petitioner before this Hon'ble Court in W.P.No.2682 of 1998. At the time of passing the final order in the above writ petition, this Court had set aside the impugned order therein and it had also directed the second respondent to pass fresh assessment order, with a further direction to the petitioner to deposit a sum of Rs.10,00,000/- out of the disputed tax. The said condition had been complied with by the petitioner. Thereafter, the second respondent has passed the assessment order, dated 30.06.2003, showing the taxable income at Rs.2,01,620/- and stating that the petitioner had paid an excess tax of Rs.10,98,380 and that the same shall be refunded on an application or adjusted against tax dues, if any. Though the petitioner has made several attempts by way of representations and notices, seeking for the refund of the said amount, there was no favourable response. Hence, left with no other alternative remedy, the petitioner has invoked the writ jurisdiction of this Court by filing the present writ petition.

5. Though the prayer is for a larger relief, the learned counsel appearing on behalf the petitioner has submitted that it would suffice, if the representation of the petitioner, dated 12.03.2005, is disposed of by the first respondent on merits, within a specified period.

6. Considering the limited prayer sought for by the learned counsel appearing on behalf of the petitioner, without going into the merits of the case, the first respondent is directed to dispose of the representation of the petitioner, dated 12.03.2005, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The petitioner is directed to furnish a copy of the representation, dated 12.03.2005, to the first respondent along with a copy of this order.

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With the above directions, the writ petition is disposed of. No costs. Consequently, connected M.P.No.1 is closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Special Commissioner of Agricultural,
Income Tax, Ground Floor,
Ezhilagam, Chepauk, Chennai- 600 005.

2.The Agricultural Income Tax Officer,
Deputy Collector, Gudalur Circle,
Gudalur-643 212, Nilgiris.

3.The Assistant
Commissioner of Agricultural,
Income Tax, Coimbatore.

1 CC To Mr.P.Rajkumar, Advocate, SR NO.54780.
1 CC to the Spl. Government Pleader(Taxes), SR NO.54811.

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LA(CO)
RVL 07.09.2007

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